

SUMMARY OF PURPOSE AND EFFECT OF H. R. 5007, INCLUDING PROPOSED
CHANGES SHOWN IN ITALICS IN THE COMMITTEE PRINT DATED JUNE 10, 1959

As pointed out by the Chairman at the hearings, this legislation has been developed over a period of more than four years through a cooperative effort of the Subcommittee and the Executive Branch.

The Bureau of the Budget, the Department of Defense, the Department of State, and the Civil Service Commission, among others, have submitted recommendations for enactment of such legislation beginning as far back as 1955. The Bureau of the Budget report on H. R. 3527, 85th Congress (identical in purpose to H. R. 5007) urges the desirability of the legislation on an overall Government basis.

Each of the numerous recommendations for substantive and technical changes in bills introduced in previous Congresses have been carefully considered and those upon which general agreement has been reached with all departments and agencies are incorporated in the June 10, 1959 Committee Print of H. R. 5007.

ANALYSIS OF H. R. 5007 (COMMITTEE PRINT)

The first section (page 1, lines 3 and 4) provides a short title for convenience of future reference.

Part A of Title I is a statement of congressional policy and intent, emphasizing stronger administration of overseas activities, adequate and uniform treatment of Government employees overseas, and uniform and efficient administration of laws relating to pay and benefits of such employees throughout the Government, and a more attractive service for recruitment and retention purposes.

Part B of Title I contains definitions primarily for use in Title II, since Title II in effect is a new Allowances and Differentials Act for overseas employees other than those in the State Department and Central Intelligence Agency.

With respect to paragraph 2 (lines 19 - 24 on page 2) it is to be noted that the United States Courts and the Library of Congress have asked to be included in the legislation, and if their requests are granted additional language will be added at the end of the bill, rather than in this paragraph.

Paragraph 3 of Part B relates to employees in the Executive Branch generally.

Paragraph 4 (lines 5 - 7 on page 3) is an added definition, recommended by the Department of Defense, which in effect will permit consideration of 50 or more states and the District of Columbia for certain purposes of the bill which will be more fully discussed in the pertinent sections.

Paragraph 5 (lines 8 - 10 on page 3) is the generally accepted definition identifying the states (excluding Alaska and Hawaii) which will be considered as "continental United States" for certain purposes elsewhere in the bill where the broader definition of "United States" in paragraph 4 is unsuitable for the particular purposes.

Paragraph 6 (lines 16 - 19 on page 3) defines foreign area in effect as meaning any area outside of the United States of America regardless of how many states there are or may be in the United States now and in the future. "Foreign area" does not mean Puerto Rico, the Canal Zone, or the possessions of the United States.

It is to be noted that Title II applies to allowances and differentials in foreign areas.

Section 201 (beginning at line 24 on page 3) prescribes the general conditions for granting allowances and differentials under Title II of the bill. The allowances and differentials may be granted notwithstanding Section 1765 of the Revised Statutes, an 1839 Statute generally prohibiting any emolument other than regular salary for Government officers and employees. Existing exceptions from this prohibition have been in effect since 1930 for existing allowance and differential payments.

The allowances and differentials will be granted only to employees officially stationed in foreign areas, except as otherwise specified in the title. They will be granted only to United States citizens whose pay is fixed by statute or by administrative action pursuant to law or in accordance with local prevailing rates. The only exception (lines 18 - 23 on page 4) is for non-citizens for whom such allowances and differentials now are provided by law.

It is to be particularly noted that all allowances and differentials authorized by Title II of the bill shall be paid under regulations issued by the President. This has been the general policy for existing allowances, differentials, travel expenses and the like. This is one of the most necessary and most important provisions of the bill.

Part B (beginning at line 19 on page 5) provides substantive legislative authority for continuance of existing quarters allowances for employees in foreign areas and, in addition, authorizes a temporary lodging allowance for the reasonable cost of temporary quarters for a period not exceeding three months when an employee goes to a new post of duty in a foreign area. This is to cover the added cost of lodging until the employee can find permanent residence quarters. A similar allowance is authorized for not more than one month preceding departure from the foreign area post, to cover any time the employee must remain at his post after relinquishing his permanent quarters.

Paragraph 2 (lines 9 - 12, page 6) continues existing allowances and adds authority to pay for water service, which is an important item in many foreign areas.

Paragraph 3 (lines 13 - 20 on page 6) is a new authority to pay or reimburse necessary and reasonable repair and alteration costs for quarters incurred by an employee on foreign duty. At many posts it is impossible to obtain reasonable permanent quarters without some alterations or repair to make them habitable. The employee now bears the cost. The bill authorizes reimbursement of necessary and reasonable costs. The departments are preparing regulations to administer this paragraph which will place a ceiling on total cost to the Government. Their regulations will provide that the total payment for repairs and alterations, plus the actual quarters allowance paid any employee, will not exceed the maximum authorized quarters allowance available to the employee (without regard to repairs and alterations) for two years at the post of duty.

Part C of Title II, beginning at line 21 on page 6, continues existing foreign area allowances and adds one new authority, that is, an allowance to cover the cost of transporting an employee's dependents to a school in the United States to obtain a secondary or undergraduate college education. Only one trip each way, ^{as authorized} for each dependent. The sentence beginning at line 18 on page 8 authorizes such travel costs for dependents of employees stationed in the Canal Zone, under Presidential regulations.

Part D of Title II (page 9) continues existing authority to pay post differentials (equated to the excessive living costs in a foreign area as compared to the District of Columbia). Such differentials are limited to

any employee "officially stationed" in a foreign area (see line 3, page 4) except that they may be granted also to an employee "officially stationed" in the United States (see definition, paragraph 4, page 3) who is on extended detail in a foreign area. The term "extended detail" by existing regulation requires a detail of at least 40 days at the foreign post, and this will be continued in effect. The purpose is to prevent payment of differentials for employees stationed in the United States who make short visits to foreign areas. In no event will a post differential exceed 25% of basic salary.

Title III consists entirely of amendments to existing provisions of three basic statutes, that is, the Administrative Expenses Act of 1946, the Foreign Service Act of 1946, and the Central Intelligence Agency Act of 1949.

The Administrative Expenses Act of 1946 is the basic law authorizing reimbursement of expenses incurred by an employee in going or moving to a new post of duty, transporting for storage household and other goods and effects, and establishing himself at the new post. The sections of the Foreign Service Act of 1946 and of the Central Intelligence Agency Act of 1949 which are amended by Title III of the bill make similar provisions for foreign service personnel and CIA personnel since such personnel are not covered by the Administrative Expenses Act of 1946.

Section 301 (lines 14 - 22 on page 9) adds a new section to the Administrative Expenses Act of 1946, authorizing, subject to regulations of the President, allotments for representation purposes to further official policies and programs of the Government. This is similar to the present foreign service representation allowance.

Part B (beginning on page 10 through page 14) provides substantially equal authority for paying or reimbursing the cost of packing and storing household goods of civilian employees assigned to duty in foreign areas whether they be employees of the Foreign Service, the Central Intelligence Agency, or any other department or agency.

Section 311 (a) (beginning at line 2, page 10) and section 311 (b) (beginning at line 13, page 11) amend existing Foreign Service Act and Central Intelligence Agency Act authorities to pay for packing, storing, and transporting to and from storage for employees' household effects to conform those authorities with a comparable new authority which is added to the Administrative Expenses Act by subsection (c), in language beginning at line 15 on page 13. This will place all United States citizens employed in overseas areas on a substantially equal basis. The purpose of these provisions is to either pay or reimburse additional costs incurred by an employee going to an overseas post (which he would not incur if he remained at his home in the United States) when he must pack and store some or all of his household and personal effects or it is desirable to do so rather than to take such effects with him to the overseas post. Likewise, authority is provided for payment or reimbursement of similar costs upon leaving one post and going to another, and in connection with the separation of an employee upon return from an overseas post except that, in the last instance, not more than three months storage is authorized since this should give the employee time to locate permanent residence quarters at home.

Attention is invited to the clauses in italic print (lines 8 - 12 on page 11 and lines 21 - 25 on page 12). These limitations were added to the respective paragraphs, in conformity with identical limitations in the introduced bill (lines 13 - 17 on page 10 and lines 1 - 5 on page 12 of the print).

The amendment to the Administrative Expenses Act shown in italic print at lines 8 - 14 on page 13 is designed to eliminate a very troublesome problem which often results in excessive costs to an employee for transporting household effects to overseas posts. In general, an employee may ship up to 7,000 pounds of household goods at Government expense. However, since a great deal of crating and packaging is needed for overseas shipments, quite often the gross weight will be one and one-half times, or twice, the 7,000 pounds actual weight of the goods. Present law permits the Government to pay for only 8,750 pounds gross weight although, as noted, the gross weight may run as high as 10,000 or 12,000 pounds. The employee must pay the transportation cost for this additional thousand pounds which represents the weight of the extra packaging needed for overseas shipment. The amendatory language simply authorizes the employee to ship at Government expense not to exceed 7,000 pounds net weight for household effects. This carries out the basic purpose of the existing law in a much more equitable and satisfactory manner.

The further italic type in lines 5 - 7 and 15 - 16 on page 13 constitutes technical changes to accommodate the amendment relating to shipping weight of household effects.

The new subsection (e) added to the Administrative Expenses Act (beginning at line 17 on page 13) is new authority for Government payment of the cost of packing and storing household goods of any employee (other than a Foreign Service or CIA employee) who is going to a foreign post and cannot or should not take all or a part of his household goods with him.

Subsection (d) (lines 7 - 24, page 14) provided for the designation, by the appropriate officials concerned with the administration of the three acts involved, of what will constitute the goods and effects which may be packed and stored, and transported for storage purposes, under Part B of Title III of the bill. The last sentence, in italic type, was recommended by the Bureau of the Budget and the other departments and agencies since the general 7,000 pound limitation on shipment and storage of household goods and effects never contemplated that the weight of motor vehicles should be subject to the limitation.

Section 321 (a) (lines 2 - 14, page 15) amends the Administrative Expenses Act to authorize, subject to Presidential regulations, the use of funds by departments and agencies generally to defray unusual expenses of operation and maintenance of suitable official residences for chief local representatives of the Government in foreign areas. This is comparable to existing authority provided by the Foreign Service Act for the foreign service of the United States.

Subsection 321 (b) (beginning at line 15 on page 15) strikes out language in the United Nations Participation Act which authorizes U. N.

official residence expenses similar to those authorized by the Foreign Service Act and inserts in lieu thereof language authorizing U. N. official residence expenses similar to those which are newly authorized by section 321 (a) of the bill for other departments and agencies under the Administrative Expenses Act.

Part D of Title III (line 9, page 16, through line 7, page 21) provides substantial equal authority for transporting motor vehicles of employees of the Foreign Service, the Central Intelligence Agency, and all other departments and agencies.

New authority to transport motor vehicles is provided in section 331 (line 10, page 16) which amends the Administrative Expenses Act to add a new subsection authorizing transportation of privately owned motor vehicles of employees assigned to duty outside the continental United States, subject to Presidential regulations. Not more than one vehicle of any employee may be transported during any four-year period, except that the head of the department may authorize a replacement vehicle if he finds the vehicle necessary for reasons beyond the control of the employee. After four years of continuous overseas duty any employee is entitled to have a replacement vehicle shipped to his post under this new authority.

Sections 332 (line 7, page 18) and 333 (line 14, page 19) bring the existing employee motor vehicle transportation authority of the Foreign Service and the Central Intelligence Agency into conformity with the new provisions for transportation of motor vehicles of employees of other departments and agencies which is provided by section 331. The Foreign Service and the Central Intelligence Agency presently have rather broad general discretion to ship automobiles of their employees, without any limitation as to replacement vehicles within certain periods of time. However, since their statutes originally used the word "automobile" which is now unduly restrictive this term is replaced by the words "motor vehicle." Conforming limitations on shipment of replacement vehicles, identical in effect to the limitations in section 331 which apply to employees of other departments and agencies, are added for Foreign Service employees and Central Intelligence Agency employees by the language in italic print, beginning at line 18 on page 18 and extending through line 10 on page 19 for the Foreign Service and beginning at line 12 on page 20 and extending through line 7 on page 21 for the Central Intelligence Agency.

The amendments made by the language in italic print beginning at line 14 on page 19 and ending at line 3 on page 20 are technical and are necessary to conform the to the general policy of H. R. 5007 as it applies to other departments and agencies, and also to conform the definitions of certain terms in the Central Intelligence Agency Act with similar terms used in this bill for other departments and agencies.

The general purpose and effect of Title IV of the bill are two fold. First, the provisions of section 203 (d) (1) of the Annual and Sick Leave Act of 1951 (relating to a maximum 45 day leave accumulation) are extended to permit the accumulation of up to 45 days of annual leave for employees

recruited in Alaska, Hawaii, Puerto Rico, or the possessions for employment outside of the area of recruitment. Second, provision is made for "home leave" -- apart and aside from annual leave -- similar to home leave now available to Foreign Service personnel. After 24 months of continuous service outside the continental United States, an employee may be granted home leave not to exceed one week for each four months of such service.

In the case of both annual leave and home leave, there will be no charge to an employee's leave for time actually and necessarily used in going to and from the post of duty or awaiting transportation, but this privilege may be exercised only once during a prescribed tour of duty at a post outside the United States.

Home leave will not be the basis for any terminal leave or for any lump-sum payment (lines 3 - 7, page 24).

Definitions relating to the identification of "continental United States" and similar terms, now contained in the Annual and Sick Leave Act, are amended in subsection 402 (b) (line 24, page 24, through line 9, page 25). The amended definitions are in conformity with the definitions provided in paragraph 4 of section III (lines 5 - 7 on page 3 of the print).

Section 501 (line 17, page 25, through line 4, page 26) constitutes an appropriation authorization and makes existing appropriations available for expenditures to effect the purposes of the legislation.

The repeal provisions in the introduced bill (line 5, page 26, through line 9, page 27, of the print) actually included certain amendatory provisions as well as repealers. Therefore, this part of the bill has been redrafted, as shown in italic print beginning on line 10 of page 27 and extending through line 11 on page 30. The additional language involved is required to effectuate the necessary amendments which, in several instances, are appropriate in lieu of repeal provisions contained in the related section of the introduced bill.

Section 521 of the introduced bill (page 30 of the print) upon further examination and analysis has been determined to be unnecessary since, regardless of this section, there is nothing in the bill otherwise which would change any right, liability, or action begun or pending under existing law.

Section 521 of the print (lines 1 - 7, page 31) is the usual provision, where a number of laws are amended, providing that reference to the old laws or parts thereof shall be construed as meaning reference to the amended provisions where appropriate.

Section 522 (lines 8 - 14, page 31) is the usual "savings" clause, preserving allowances and differentials provided by existing law until such time as the new allowances and differentials provided by the bill are placed in effect by appropriate regulations.

Section 523, exempting certain allowances and expenses paid to employees for income tax purposes, will be discussed separately.

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